NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the Register first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Register after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 5.1. STATE PERSONNEL BOARD

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R2-5.1-101	Renumber
R2-5.1-101	New Section
R2-5.1-102	Renumber
R2-5.1-102	Amend
R2-5.1-103	Renumber
R2-5.1-103	Amend

2. The specific authority for the rulemaking, including both the statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 41-782

Implementing statutes: A.R.S. §§ 41-781, 41-782, and 41-785, as added by Laws 2000, Chapter 21

3. The effective date of the rules:

December 13, 2000

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 712, February 18, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 1468, April 21, 2000

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Judy Henkel, Executive Director

Address: State Personnel Board
1400 West Washington, Suite 280
Phoenix, AZ 85007

Telephone: (602) 542-3888

Fax: (602) 542-3588

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The board initiated rulemaking to eliminate redundant language, update rules for clarity and understanding, change language to conform with law and current rulewriting standards, create a separate definitions section, and add language addressing exhibits and prehearing conferences.

7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting materials:

The board did not rely on any study as an evaluator or justification for the proposed rule.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

There will be a minimal cost to the appellant as a result of a change requiring the appellant to provide a copy of the appeal to the agency. There will also be a cost to the appellant and respondent as a result of a change requiring them to provide copies of the exhibits they expect to use in the hearing. There will be a savings to the appellant, respondent, and board if some issues are disposed of as a result of a prehearing conference. Witness fees are paid by the party calling the witness. If the witness is a state employee, no fee is paid. The majority of witnesses are state employees. There have been very few instances in which a non-state employee testified. It is anticipated that there will be no economic burden other than the minimal expense to the board, the Secretary of State's Office, and the Governor's Regulatory Review Council for the rulemaking process. The Board anticipates that interested individuals will benefit from this rulemaking because the rules will be less confusing to apply. It was determined that there would be minimal impact, if any, on small businesses. The rule changes will not impose any reporting, bookkeeping, or compliance requirements on small businesses.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Various grammatical, editorial, and format changes were made to improve clarity and conciseness. The board also made changes that would conform with current rulewriting standards suggested by agencies and the Governor's Regulatory Review Council staff. The changes have been made without changing the substance of the proposed rules.

11. A summary of the principal comments and the agency response to them:

The board received comments on its proposed rulemaking from seven state agencies and the American Federation of State, County, & Municipal Employees. The principal comments included rewording subsections to be more clear and concise and conform with current rulewriting standards, defining certain terms, and concerns with the board changing certain time-frames. The board took into consideration the comments and suggestions provided on its rulemaking and as a result made changes to its rules based on the comments.

There was a specific concern with the board changing the 10 day time-frame to 30 days for hearing officers to submit their report to the board. Those who commented on this change were concerned that the hearing process, as a result of the change, would take longer. The same comments and concerns were raised on the board's proposal to change the time-frame of 30 days for the board to render its final decision to 45 days. The board has made these changes as a result of a performance audit recommendation by the Auditor General's Office. The Auditor General's Office recommended the board discontinue providing verbatim transcripts to its hearing officers but instead allow hearing officers 30 days after the last day of hearing to submit a report. Because the hearing officers do not have to wait for a copy of the transcripts to prepare their reports to the board, the length of the process has actually been reduced. The change in the time-frame for the board to render its final decision from 30 to 45 days will not result in lengthening the process either.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 5.1. STATE PERSONNEL BOARD

ARTICLE 1. GENERAL PROVISIONS

R2-5.1-101. Definitions
~~R2-5.1-101.~~ R2-5.1-102. Personnel ~~Personal~~ Board Procedures ~~procedures~~
~~R2-5.1-102.~~ R2-5.1-103. ~~Appeals~~ Appeal Procedures

ARTICLE 1. GENERAL PROVISIONS

R2-5.1-101. Definitions

Unless the context requires otherwise, the following definitions govern:

1. "Agency" means an employing state entity taking an appealable disciplinary personnel action against an employee in state service as defined by A.R.S. §41-762.
2. "Appeal" means a written request filed with the Board by a permanent status employee seeking relief from dismissal, demotion, or suspension of more than 40 working hours.
3. "Appellant" means a permanent status employee in state service filing an appeal with the Board.

4. "Day" means a calendar day, unless otherwise stated.
5. "Deposition" means a form of discovery in which testimony of a witness is given under oath, subject to cross-examination, and recorded in writing, before the hearing.
6. "Hearing" means an administrative proceeding at which the appellant and the agency are given the opportunity to be heard by oral or written presentation of evidence.
7. "Hearing officer" means a person employed or appointed by the Board, the Board, the Board's chair, or any member of the Board designated by the Board's chair acting as the trier of fact.
8. "Respondent" means a state service agency whose interests are adverse to those of an appellant or who will be directly affected by the Board's decision.
9. "Subpoena" means a formal legal document issued under authority of the Board to compel the appearance of a witness at an administrative proceeding.

~~R2-5.1-101.~~ R2-5.1-102. Personnel ~~Personal~~ Board Procedures ~~procedures~~

A. Regular Meetings. At each public meeting, the Board shall announce the ~~The~~ time and place of its next ~~each~~ regular monthly meeting ~~of the Board shall be announced at the preceding public meeting and shall be in conformance with statutory requirements~~. Notice shall be given as required by law ~~in conformance with all open meeting laws~~.

B. Special Meetings. The chair of the Board may call special ~~Special~~ meetings of the Board ~~shall be called by the Chairman~~. Notice shall be given as required by law ~~in conformance with all open meeting laws~~.

C. Emergency Meetings. In the case of an emergency, the chair or vice chair may call a meeting ~~may be called by the Chairman~~. The Board shall provide notice of the time, place, and agenda of the ~~The~~ emergency meeting as required by law ~~shall be held at a time and upon notice as is appropriate and in conformance with all open meeting laws~~.

D. Agenda. The Board shall consider only matters placed on the agenda. ~~All matters to be presented for consideration by the Board at a meeting shall be placed on the Board's agenda.~~ The agenda shall be mailed to each member of the Board at least 5 ~~five~~ businessdays before ~~prior to~~ the meeting. ~~Matters which have not been placed upon the agenda shall not be considered by the Board.~~

E. Notice to Agencies. At least 5 business days before a meeting, the Board shall mail a ~~A~~ copy of the agenda ~~for each meeting shall be mailed~~ to state agencies indicating ~~that indicate~~ an interest in receiving the agenda ~~at least five working days prior to the Board meeting~~. The Board's failure ~~Failure~~ to mail the agenda, or failure of an agency to receive the agenda ~~it~~, does ~~shall~~ not affect the validity of the meeting or of any action taken by the Board at the meeting.

F. Notice to parties. The Board shall provide the notice required by law to all ~~All~~ parties in a contested matter scheduled for a Board meeting. ~~shall be notified of the Board meeting pursuant to A.R.S. § 41-785.~~

G. Minutes. ~~The official actions of the Board shall be recorded in its minutes.~~ The Board shall record in the Board's minutes the ~~The~~ time and place of each meeting of the Board, names of the Board members present, all official acts of the Board, the votes of each Board member except when the acts are unanimous, and, when requested by a member, a member's dissent with the member's ~~his~~ reasons ~~shall be recorded in the minutes~~. Board staff shall write the minutes and shall present the minutes ~~The minutes shall be written by Board staff and presented~~ for approval by the Board members at the next regular meeting. The Board shall provide copies of the approved minutes to the appellant and respondent within 7 days of the regular meeting at which the minutes are approved. ~~The minutes or a true copy thereof certified by a majority of the Board shall be open to public inspection.~~

~~R2-5.1-102.~~ R2-5.1-103. Appeal ~~Appeals~~ Procedures

~~**A.** General provisions. Unless the context requires otherwise, the following definitions govern:~~

~~1. "Appeal" means any written request filed with the Board by any permanent status employee seeking relief from dismissal, demotion, or suspension of more than 80 working hours.~~

~~2. "Appellant" means the permanent status employee filing any appeal with the Board.~~

~~3. "Hearing officer" means a person employed or appointed by the Board or its chairman as a hearing officer, or any member of the Board designated by it or its chairman as a hearing officer.~~

~~4. "Respondent" means the state service agency or agencies whose interests are adverse to those of the appellant or who will be directly affected by the Board's decision.~~

~~**B.** Appeal Procedures~~

A.~~1.~~ Appeal. A permanent status employee who wishes to appeal a disciplinary personnel action shall, no later than 10 business days from the effective date of the action being appealed, file a written ~~The~~ appeal with ~~to~~ the Board ~~shall be filed~~ in ~~writing~~ accordance with A.R.S. §41-785. The appeal shall include:

1. The appellant's name, address, and telephone number.
2. The name of the agency taking the action being appealed.
3. The name, address, and telephone number of the appellant's representative, if applicable.
4. The action requested of the Board.
5. A specific response to the causes for disciplinary action upon which the appeal is based.

~~The appeal shall include the action requested of the Board and must state specific facts relating directly to the charges on which the appeal is based, so that the Board may understand the nature of the appeal. A copy of the appeal shall be provided to the respondent by the Board within twenty days in advance of the hearing.~~

B. Change of address. The parties are responsible for notifying the Board of any change of address or telephone number.

C. ~~2.~~ Routing of appeal. Upon filing the appeal, the appellant shall furnish the respondent with a copy of the appeal. In addition, the Board shall forward a copy of the appeal to the respondent agency within 5 business days from the date of filing. ~~Time for appeal. An appeal must be filed by the appellant not later than ten working days from the effective date of the dismissal, suspension, or demotion, which is the subject of the appeal.~~

~~3. Reply. No reply to the appeal need be filed by the respondent. If a reply is filed prior to the hearing, a copy thereof shall be sent by the respondent to the appellant. If no reply is filed, every relevant and material allegation of the appeal is in issue, but in any case, irrelevant and immaterial issues may be excluded.~~

D. ~~4.~~ Hearing officer. The Board or the Board's chair may assign an appeal or may direct staff administratively to assign an appeal ~~Any appeal may be assigned by the Board or its chairman~~ to a hearing officer for hearing. When an appeal is assigned to a hearing officer, the hearing officer ~~he~~ is ~~shall be~~ the authorized representative of the Board and is fully ~~authorized and~~ empowered to grant or refuse extensions of time, to set proceedings for hearing, to conduct the hearing, and to take any action in connection with the proceedings that ~~which~~ the Board ~~itself~~ is authorized ~~to take~~ by law to take ~~or by these rules on behalf of the Board~~ other than making the final findings of fact, conclusions of law, and order. The ~~No~~ assignment of an appeal to a hearing officer does not ~~shall~~ preclude the Board or the Board's ~~its~~ chair ~~chairman~~ from withdrawing the ~~such~~ assignment and conducting the hearing itself or from reassigning the ~~an~~ appeal to another hearing officer. The hearing officer conducting the hearing shall write ~~and submit a report embodying~~ proposed findings of fact, conclusions of law, and recommendation ~~recommendations~~, as well as a brief statement of reasons for the hearing officer's ~~his~~ findings and conclusions and shall submit the proposed findings of fact and conclusions of law ~~report~~ within 30 ~~ten~~ days of the last date of the hearing. The Board ~~hearing~~ shall ~~be~~ consider ~~considered~~ the hearing concluded when it receives a copy ~~upon receipt by the Board~~ of the hearing officer's proposed findings of fact, conclusions of law, and recommendation or, if objections are filed, on the date the objections are filed. The hearing officer may be present during the consideration of the appeal by the Board, and, if requested, shall assist and advise the Board.

E. ~~5.~~ Time for hearing. The Board shall hold a hearing on an appeal ~~Every hearing on an appeal shall be held~~ within 30 ~~thirty~~ days from receipt by the Board of an appeal unless the Board finds good cause to extend the time ~~is extended by mutual consent of the appellant and respondent~~.

F. ~~6.~~ Notice of hearing. The Board shall provide the appellant and respondent with written ~~Written~~ notice of the time, date, and place of hearing of an appeal, and the name of the hearing officer~~, if any, shall be provided the appellant and the respondent by the Board~~ at least ~~not less than~~ 20 ~~twenty~~ days before the date of the ~~such~~ hearing.

G. ~~7.~~ Nature of hearing, rules of evidence. Every hearing shall be open to the public unless the appellant requests a confidential hearing. If the disciplinary hearing involves evidence the state is precluded by law from disclosing, ~~then~~ the Board or the Board's hearing officer shall grant a request for a confidential hearing ~~requested~~ by the state agency ~~may be granted by the Board or its hearing officer~~. The appellant, respondent, or hearing officer may request that portions of the hearing be sealed or adequately protected if ~~If~~ testimony of certain witnesses is of a sensitive nature. ~~, either the appellant, respondent or hearing officer may request that those portions of the hearing be sealed or adequately protected.~~ Any party may be self-represented ~~be represented by himself~~ or may designate a representative as provided by law. Every hearing shall be conducted in an impartial manner as a quasi-judicial proceeding ~~under the rules of administrative procedure~~. All witnesses shall testify under oath or by affirmation, and a record of the proceeding ~~proceedings~~ shall be made and kept for 3 ~~three~~ years. Hearings shall be conducted in a manner so as to ascertain the substantial rights of parties. The Board, a Board member, or a hearing officer is ~~shall~~ not ~~be~~ bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except the rule of privilege as recognized by law.

H. Prehearing conferences. The Board or the Board's hearing officer may require both parties to attend a prehearing conference. Any agreements reached at that conference shall be binding at the hearing.

I. Exhibits. A party introducing an exhibit shall furnish the Board or the Board's hearing officer and the opposing party with a copy of the exhibit before or at the commencement of the hearing.

J. ~~8.~~ Exclusion of witnesses. Upon the motion of an ~~any~~ appellant or respondent, the hearing officer, in the hearing officer's ~~his~~ discretion, may exclude from the hearing room any witness ~~witnesses~~ who is not ~~at the time~~ under examination. ~~, but a party to the proceeding, or his representative, or other person conducting the case, shall not be excluded.~~ The hearing officer shall not exclude a party to the proceeding or a party's representative conducting the case.

K. ~~9.~~ Witness fees. Witnesses, other than state employees, when subpoenaed to attend a hearing ~~or investigation~~ are entitled to the same fee as is allowed witnesses in civil cases in the Arizona Superior Court ~~courts of record~~. If the hearing officer, on the hearing officer's own motion, subpoenas a witness, ~~If a witness is subpoenaed by the hearing officer on his own motion,~~ fees and mileage may be paid from funds of the Board upon presentation of a duly executed claim. If the appellant or respondent subpoenas a witness, ~~is subpoenaed upon request of the appellant or respondent,~~ the fees and mileage shall be paid by the party requesting the witness. Reimbursement to state employees subpoenaed as witnesses is ~~shall be~~ limited to payment of mileage by the party requesting the witness ~~him~~.

L. Enforcement of subpoenas. If enforcement of appearance of a witness is necessary, enforcement proceedings shall be taken to Superior Court, and enforcement shall be determined by the Superior Court and not the Board. The Board shall be made a party to any proceedings and shall follow any orders entered by the court.

M.~~10.~~ Depositions. ~~If a witness does not reside within the county or within one hundred miles of the place where the hearing or investigation is to be held, is out of the state, or is too infirm to attend the hearing or investigation, any party thereto at his own expense may cause his deposition to be taken.~~ Either party may request that a witness' deposition be used as evidence if ~~If~~ the presence of a witness cannot be procured at the time of hearing ~~or investigation, his deposition may be used in evidence by either party or the Board~~.

N.~~11.~~ Proposed findings of fact. Both appellant and respondent ~~shall~~ have the right to file with the Board proposed findings of fact and conclusions of law for the benefit of the hearing officer. If either party chooses to file proposed findings of fact and conclusions of law, the filing shall take place before the conclusion of the hearing as defined in subsection (D).

O.~~12.~~Objections to findings. The Board shall transmit a copy of the hearing officer's ~~The~~ proposed findings of fact, ~~and~~ conclusions of law, and recommendation ~~the hearing officer shall be transmitted~~ to the appellant and respondent ~~interested parties~~. ~~Within ten days of their receipt, any interested party~~ The appellant or respondent may file written objections (not post-hearing evidence) to the hearing officer's proposed findings of fact or conclusions of law ~~report~~ with the Board within 15 days of receipt of the hearing officer's proposed findings of fact and conclusions of law and shall serve copies of the objections ~~them~~ upon the other party ~~interested parties~~ and the Board. The Board shall not consider objections not timely filed.

P.~~13.~~ Personnel Board decision. Within the time-frame required by law, the ~~The~~ Board shall notify the appellant and respondent ~~interested parties in advance~~ of the time and place of the Board meeting at which the appeal will be decided. The Board may affirm, reverse, adopt, modify, supplement, amend, or reject the hearing officer's proposed findings of fact and conclusions of law ~~report~~ in whole or in part, may recommit the matter to the hearing officer with instructions, may convene itself as a hearing body, or may make any other appropriate disposition of the appeal as allowed by law. The Board shall ~~will~~ make a ~~its~~ decision on the appeal in an ~~its~~ open meeting within 45 ~~thirty~~ days after the conclusion of a hearing and shall send a copy of the ~~their~~ decision to the appellant and respondent ~~interested parties~~ by certified ~~registered~~ mail, return receipt requested. If ~~In the event~~ the Board orders the respondent to reinstate the appellant, it may also order the respondent to reinstate the appellant with or without back pay for the period and in the amounts ~~as~~ the Board determines to be proper.

NOTICE OF FINAL RULEMAKING

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

PREAMBLE

1. Sections Affected	Rulemaking Action
Article 7	New
R7-2-701	New
R7-2-702	New
R7-2-703	New
R7-2-704	New
R7-2-705	New
R7-2-706	New
R7-2-707	New
R7-2-708	New
R7-2-709	New
R7-2-710	New
R7-2-711	New
R7-2-712	New
R7-2-713	New
R7-2-714	New
R7-2-715	New
R7-2-716	New
R7-2-717	New
R7-2-718	New

2. The specific authority for the rulemaking, including both the authorizing statue (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §15-203(A)

Implementing statues: A.R.S. §§15-183(R), 15-203(B)(4), and 15-272

3. The effective date of the rule:

December 15, 2000

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 2 A.A.R. 4105, September 27, 1996

Notice of Proposed Rulemaking: 2 A.A.R. 5076, December 27, 1996

5. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name:	Corinne L. Velasquez, Administrator
Address:	1535 West Jefferson, Room 418 Phoenix, Arizona 85007
Telephone:	(602) 542-5057
Fax:	(602) 542-3046

6. An explanation of the rule, including the agency's reasons for initiating the rule:

R7-2-701 through R7-2-720 will set forth the procedures for conducting hearings before the State Board of Education or advisory committees to the Board who have been appointed by the Board to conduct hearings, such as the Professional Practices Advisory Committee. Hearings are held for such matters as noncompliance with the Uniform System of Financial Records, charter school matters and certification matters. These rules will establish a uniform and consistent hearing process for all hearings before the Board or its advisory committees and will supersede portions of R7-2-205 and R7-2-802.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The summary of the economic, small business and consumer impact:

It is not anticipated that the adoption of these rules will have any impact on the economy, small business, or consumer. This is a process used by the Board and its advisory committees for the conduct of hearings and there are no new requirements being placed on any party that would have a financial impact on the party.

These rules will clarify the process for hearings and will allow a party to a hearing a clearer, more concise understanding of the process. Research of hearing requirements and procedures will also be simplified with the adoption of these rules.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

R7-2-712 renumbered as R7-2-702 and R7-2-713 renumbered as R7-2-704, with remaining rules renumbered as appropriate

Table of Contents: change title of R7-2-709 "Rehearing and review of decision", adding "and review" for clarification of intent and renumber rules as appropriate R7-2-703 (Contested cases): Change "haring" to "hearing" to correct a typographical error R7-2-704 (Service): Reletter paragraph "C" as "A", and reletter paragraphs that follow for clarification of procedure; change paragraph "D", last sentence, from "Civil Division" to "Administrative Law Section" and change "Education Section" to "Education Unit", for clarification of intent. Add "certified" in paragraph A for clarification of intent. Add a period to the end of the sentence in paragraph E to correct a typographical error.

R7-2-705 (Hearings and evidence): Paragraph A, third sentence - delete "shall have the right to" and replace with "may"; add "shall have the right" before "to submit"; and delete "shall have the right of" and replace with "conduct, for clarification of intent.

R7-2-709 (Rehearing and review of decisions): Add "and review" after "Rehearing" in the title of the rule for clarification of intent. Changed the filing deadlines in paragraph to "30" days, consistent with statutes pertaining to hearings. Add new paragraph G for clarification.

R7-2-710 (Representation): Deleted, with rules renumbered to conform.

R7-2-710 (Intervention): Paragraph E, first sentence - delete "promptly" and replace with "prior to the end of the following business day", for clarification of intent.

R7-2-711: Delete the rule in its entirety, moving the sentence relating to parties participating in person or through an attorney to R7-2-705(A).

R7-2-712: Changed subpoena powers given to the hearing body to the Department of Education.

R7-2-713 (Conduct of hearing): Paragraph B - Reworded the paragraph to include language that complies with existing statutes regarding confidentiality of evidence obtained during an investigation.

R7-2-718: Added the word "and" and replaced a comma between "findings of fact" and "conclusions of law".

10. A summary of the principal comments and the agency response to them:

There were no comments received, oral or written, related to the proposed new rules.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. Was this rule previously adopted as an emergency rule?

No

14. The full text of the rule follows:

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 7. ADJUDICATIONS

ARTICLE 7. ADJUDICATIONS

R7-2-701. Definitions

In this Article, unless the context otherwise specifies:

1. "Board" means the State Board of Education.
2. "Chairman" means the chairperson of the Professional Practices Advisory Committee, established pursuant to R7-2-205.
3. "Contested case" means any proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by the State Board of Education after an opportunity for hearing.
4. "Department" means the Department of Education.
5. "Hearing body" means the Board or the Professional Practices Advisory Committee.
6. "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.
7. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character, or another agency.
8. "PPAC" means the Professional Practices Advisory Committee, established pursuant to R7-2-205 to conduct hearings related to certification or recertification matters regarding immoral conduct, unprofessional conduct, unfitness to teach and revocation, suspension or surrender of certificates.

9. "Pupil" means any student enrolled in an Arizona public or private school. "Pupil" also means any student who was enrolled in an Arizona public or private school at the time of the events which are the subject of a proceeding and who is still of minor age.

R7-2-702. Filing; computation of time; extension of time

A. All papers concerning a contested case shall be filed within the time limit, if any, for such filing.

B. All papers filed in any contested case shall be typewritten or legibly written on paper 8 ½ by 11 inches in size, shall contain the name and address of the party or other correspondent, shall be properly captioned and designate the title and case number, shall state the name and address of each party served with a copy, and shall be signed by the party or, if represented, by the party's attorney. The signature certifies that the signer has read the paper, that to the best of the signer's knowledge, information, and belief there are good grounds to support its contents, and that it is not interposed for delay.

C. In computing any period of time prescribed or allowed by this Article, or any notice or order concerning a contested case, the day of the act, event, or default from which the designated period of time begins to run shall not be included. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When that period to time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday.

D. Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party by another party, and the notice or other paper is served by mail, five days shall be added to the prescribed period. This subsection has no application to notices, orders, or other papers issued by the hearing body.

E. For good cause shown, the presiding officer may grant continuances and extensions of time for filing notices or other papers.

R7-2-703. Contested cases; notice; hearing records

A. In a contested case, the parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall be given at least 20 days prior to the date set for the hearing.

B. The notice shall include:

1. A statement of the time, place and nature of the hearing.
2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
3. A reference to the particular sections of the statutes and rules involved.
4. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

C. Opportunity shall be afforded all parties to respond and present evidence and argument on the issues involved.

D. The Board may dispose of any contested case by decision or approved stipulation, agreed settlement, consent agreement or by default.

E. A hearing before a hearing body in a contested case or any part thereof shall be recorded manually or by a recording device and shall be transcribed on request of any party, unless otherwise provided by law. The cost of such transcript shall be paid by the party making the request, unless otherwise provided by law or unless assessment of the cost is waived by the Board.

F. The hearing body may reschedule the hearing, maintaining due regard for the interests of justice and the orderly and prompt conduct of the proceedings.

G. The record in a contested case shall include:

1. All pleadings, motions and interlocutory rulings.
2. Evidence received or considered.
3. A statement of matters officially noticed.
4. Objections and offers of proof and rulings thereon.
5. Proposed findings of fact and conclusions of law and exceptions thereto.
6. Any decision, opinion, recommendation or report of the hearing body.
7. All staff memoranda, other than privileged communications, or data submitted to the hearing body in connection with its consideration of the case.

H. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

R7-2-704. Service; proof of service

A. The Board shall serve notices of hearing, findings of fact, conclusions of law, and recommendations of the hearing body, and decisions and final orders of the Board, either by personal service or by certified mail. All other papers required to be served may be served by regular or certified mail or may be personally served.

B. After service of a notice of hearing in a contested case, a copy of every paper filed by a party, or individual seeking to intervene, shall be served on all parties to the contested case, or their lawyers if represented, at the same time the paper is filed.

C. The following evidences completed service:
1. If personally served, an affidavit of personal service, sworn to by the individual serving the paper and stating the name of the individual upon whom it was served, where service was made, and the date of such service; or
2. If served by certified mail, the return receipt signed by the party served or someone authorized to act on behalf of the party served; or
3. If served by regular or certified mail, either a statement subscribed on the paper filed, or an affidavit indicating the date mailed and listing those to whom it was mailed.

D. When a party is represented by an attorney, service shall be made on the attorney. If a notice of hearing shows service on the Attorney General, all papers served thereafter shall be served on the Assistant Attorney General named on the notice of hearing or who later appears on behalf of the Attorney General, or if no Assistant Attorney General is named, then on the Attorney General, Education and Health Section, Education Unit.

R7-2-705. Hearings and evidence

A. Parties may participate in the hearing in person or through an attorney.

B. Upon request of either party, the presiding officer may schedule a prehearing conference. The purpose of a prehearing conference shall be to narrow issues, attempt settlement, address evidentiary issues or for any other purpose deemed necessary by the presiding officer.

C. A hearing in a contested case shall be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. A party to such proceedings may be represented by counsel and shall have the right to submit evidence in open hearing and conduct cross examination. Hearings may be held in any location determined by the hearing body.

D. Copies of documentary evidence may be received in the discretion of the presiding officer. Upon request, the parties shall be given an opportunity to compare the copy with the original.

E. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the hearing body. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The hearing body's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

R7-2-706. Request for hearing

When a request for a hearing is filed with the Board, the request shall be in writing and shall state the specific grounds which are the basis of the hearing request and the statute, rule or other legal basis entitling the person to a hearing.

R7-2-707. Denial of request for hearing

If the Board denies the request for a hearing, the denial shall be in writing and shall state the reasons therefor. A denial of a request for hearing is final and not subject to further administrative review.

R7-2-708. Failure to appear; default

A. If, after being served with a notice of hearing, a party fails to appear at the time and place of any proceeding in a contested case, a proposed default order that includes a statement of the reasons to default the nonappearing party may be served upon all parties.

B. Within seven days after service of a proposed default order, the party against whom it was issued may file a written request to deny the proposed default order, including a statement of the reasons it should be denied. The hearing body shall rule upon request to deny the proposed default order within 30 days of the date of filing.

C. The hearing body may enter the default order after expiration of the time specified in subsection (B) of this rule.

D. After entering a default order, the hearing body may conduct any further proceedings necessary to complete the contested case without the defaulted party and shall determine all issues in the case, including those affecting that party.

R7-2-709. Rehearing and review of decisions

A. After a hearing is held, a party in a contested case who is aggrieved by a decision rendered by the Board may file with the Board, not later than 30 days after such decision has been made, a written motion for rehearing specifying the particular grounds therefor. A motion for rehearing under this section may be amended at any time before it is ruled upon by the Board. A response may be filed within 15 days after service of such motion by any other party. The Board may require the filing of written briefs on the issues raised in the motion or response and may provide for oral argument.

B. A rehearing of a decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the hearing body, or abuse of discretion, whereby the moving party was deprived of a fair hearing.
2. Misconduct of the hearing body or the prevailing party.
3. Accident or surprise which could not have been prevented by ordinary prudence.
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the hearing.

5. Excessive or insufficient penalties.
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.
7. That the decision is not justified by the evidence or is contrary to the law.

C. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties, on all or part of the issues, for any of the reasons set forth in subsection B herein. An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

D. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. The order granting such a rehearing shall specify the grounds therefor.

E. Not later than 20 days after a decision is rendered, the Board may, on its own initiative, order a rehearing of its decision for any reasons for which it might have granted a rehearing on motion of a party. The order granting such a rehearing shall specify the grounds therefor.

F. When a motion for rehearing is based upon affidavits they shall be served with the motion. An opposing party may, within ten days after service of such motion, serve opposing affidavits and this period may be extended for an additional period not exceeding 20 days, by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

G. After a hearing has been held and a final administrative decision has been entered, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

H. Any party in a contested case who is aggrieved by a decision rendered by the Board may file with the Board, not later than 20 days after such decision has been made, a written request for review of the decision. If a review of the decision is granted, the Board may affirm or modify the previous decision.

R7-2-710. Intervention

A. Any person seeking to intervene in any contested case shall file a written request to intervene. Intervention shall be granted only if the hearing body determines that:
1. The legal interests of the person requesting to intervene may be substantially affected by the outcome of the contested case;
2. Intervention will not unduly delay or bias the hearing;
3. The interest of the person requesting to intervene is not adequately represented by another party to the contested case; and
4. The proposed intervention is in the interests of justice.

B. The request shall state the claims or defenses for which intervention is sought, briefly describing the interests that may be affected by the outcome of the case and including such facts as demonstrate those interests.

C. The request shall be filed and served upon all parties at least 15 days prior to hearing.

D. Any party may file a response to the request to intervene within five days of service of the request upon the party.

E. The hearing body shall decide on the request to intervene at least five days prior to the hearing date and shall, prior to the end of the following business day, notify the persons requesting to intervene and all parties of the decision. The hearing body may reschedule a hearing or prehearing conference to provide sufficient time for the parties to respond to a request to intervene or to prepare for the hearing or prehearing conference.

F. The hearing body may limit the intervener's participation to issues in which the intervener has a particular interest.

R7-2-711. Consolidation and severance

A. When proceedings involving a common question of law or fact or common parties are pending before the hearing body, it may, upon its own volition or upon request of any party, order a joint hearing on any or all the matters at issue.

B. In furtherance of convenience, to avoid prejudice, or when separate hearings will be conducive to expedition and economy, the hearing body may, upon its own volition or upon request of any party, order any proceeding severed with respect to some or all issues or parties.

R7-2-712. Subpoenas

A. The Department may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence on its own volition or at the request of a party.

B. A request for a hearing subpoena shall be in writing and served on each party at least seven days prior to the date set for hearing and shall state:
1. The name of the contested case, the case number, and the time and place where the witness is expected to appear and testify;
2. The name and address of the witness subpoenaed; and
3. The documents, if any, sought to be provided.

C. On application of a party or the agency and for use as evidence, the hearing body may permit a deposition to be taken, in the manner and upon the terms designated by the hearing body, of a witness who cannot be subpoenaed or is unable to attend the hearing.

D. The individual to whom a subpoena is directed shall comply with its provisions unless, prior to the date set for appearance, the hearing body grants a written request to quash or modify the subpoena. The request shall state the reasons why it should be granted. The hearing body shall grant or deny such request by order.

E. The party requesting the subpoena shall prepare it and cause it to be served upon the individual to whom it is directed in the same manner as provided for service of subpoenas in civil matters before the superior court. The return of service shall be filed with the hearing body.

R7-2-713. Conduct of hearing

A. The presiding officer may conduct all or part of the hearing by telephone, television, or other electronic means, as long as each party has an opportunity to participate in the entire proceeding as it takes place.

B. Except for those hearings which may involve presentation of evidence protected by A.R.S. §15-350, or which are otherwise closed pursuant to an express provision of law, all hearings are open to public observation.

C. Conduct at any hearing that is disruptive or shows contempt for the proceedings shall be grounds for exclusion from further participation or observation.

R7-2-714. Testimony of pupils

A. All individuals present at a hearing regarding an action against a certificate shall:

1. Keep confidential the name of any pupil involved in the hearing, unless disclosure is with the consent of the pupil's parent or guardian or by order of the superior court. This action does not prevent disclosure of the pupil's name to any party to the hearing.
2. Keep confidential the testimony of any pupil, all of which shall be taken in executive session, except that the Board office shall be furnished a confidential copy of the pupil's testimony as part of the complete transcript of the hearing. The individuals present during the executive session shall be determined by the presiding officer in consultation with the Attorney General's office except that the respondent and counsel shall always be permitted to be present. The transcripts of testimony taken during executive session shall be maintained by the Board.

B. The Board of Education or its designee shall:

1. Make available a consent form which requires the signature of the pupil's parent or guardian prior to disclosure of the pupil's name;
2. Assign a fictitious name to all witnesses identified as pupils on the witness lists provided by the complainant and respondent if not in receipt of written parental or guardian consent for disclosure;
3. Notify hearing participants, prior to and during the hearing, of any fictitious names to be used.

C. The presiding officer shall instruct all individuals present at the hearing of the confidentiality requirements of A.R.S. §15-551 and this rule.

R7-2-715. Evidence

A. All witnesses shall testify under oath or affirmation.

B. The hearing body shall have the power to administer oaths and affirmations.

C. All parties shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and fair disclosure of the facts.

D. The hearing body shall receive evidence, rule upon offers of proof, and exclude evidence the hearing body has determined to be irrelevant, immaterial, or unduly repetitious.

E. Unless otherwise ordered by the hearing body, documentary evidence shall be limited in size when folded to 8 ½ by 11 inches. The submitting party shall identify documentary exhibits by number or letter and party and furnish a copy of each exhibit to each party present. One additional copy shall be furnished to the hearing body unless the hearing body otherwise directs. When evidence offered by any party appears in a larger work, containing other information, the party shall plainly designate the portion offered. If the evidence offered is so voluminous as would unnecessarily encumber the record, the book, paper, or document shall not be received in evidence but may be marked for identification and, if properly authenticated, the designated portion may be read into or photocopied for the record. All documentary evidence offered shall be subject to appropriate and timely objection.

R7-2-716. Stipulations

Parties to any contested case may stipulate, in writing, agreement upon any matter involved in the proceeding. If approved by the presiding officer, agreement on matters of procedure shall be binding upon the parties to the stipulation. The hearing body may require presentation of evidence for proof of stipulated facts for the hearing body's consideration. No substantive matter agreed to by the parties shall be binding upon the Board unless incorporated into the decision of the Board.

R7-2-717. Recommendations

A. A recommended decision shall be prepared for the Board by the PPAC.

B. A recommended decision shall be delivered to the Board within 30 days after the close of the hearing or the date ordered for submission of proposed findings or legal memoranda, whichever comes last, unless the Board extends the period for good cause.

R7-2-718. Decisions and orders

A. Any final decision or order adverse to a party in a contested case shall be in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified either personally or by mail to their last known address of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to the party's attorney of record.

B. When the Board is the hearing body, the decision shall be rendered within 60 days following the final day of the hearing or the date ordered for submission of proposed findings of fact and conclusions of law or legal memoranda, whichever comes last.

C. Within 30 days after receipt of any recommended decision from the PPAC, the Board shall render a decision to affirm, reverse, adopt, modify, supplement, amend or reject the findings of fact, conclusions of law and recommendations in whole or in part, may remand the matter to the hearing body with instructions, or may convene itself as the hearing body.

D. If no request for rehearing or review has been timely filed by a party, a decision in a contested case is effective and final ten days from the date served on that party.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 4. DEPARTMENT OF HEALTH SERVICES NONCOMMUNICABLE DISEASES

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R9-4-103	Repeal
R9-4-301	Renumber
R9-4-301	New Section
R9-4-302	Renumber
R9-4-302	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-136(F)

Implementing statutes: A.R.S. §§ 36-1673, and 36-1675

3. The effective date for the rule:

December 12, 2000

4. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 5 A.A.R. 4323, November 12, 1999

Notice of Proposed Rulemaking: 6 A.A.R. 3015, August 18, 2000

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Patricia M. Arreola

Address: Arizona Department of Health Services
Bureau of Epidemiology and Disease Control Services
3815 North Black Canyon Highway
Phoenix, Arizona 85015

Telephone: (602) 230-5943

Fax: (602) 230-5933

E-mail: parreol@hs.state.az.us

OR

Name: Kathleen Phillips, Rules Administrator

Address: Arizona Department of Health Services
1740 West Adams, Room 102
Phoenix, Arizona 85007

Telephone: (602) 542-1264

Fax: (602) 542-1090

E-mail: kphilli@hs.state.az.us

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The Department is repealing the definitions Section pertaining specifically to the Blood Lead Levels Article and replacing it with a new definitions Section within the Blood Lead Levels Article. The Department is also amending the only Section previously in the Blood Lead Levels Article to conform to current rulemaking format and style requirements, to clarify the rule, and as described below.

The Department is changing the adult blood lead level reportable by physicians to 25 micrograms per deciliter of blood. The Department is making this change in response to the National Institute for Occupational Safety and Health's identification of 25 micrograms per deciliter of blood as the level of concern for adults. Although physicians will no longer be required to report adult blood lead level results of less than 25 micrograms per deciliter of blood, the Department will still receive this information from clinical laboratory directors for tracking purposes.

Under the amended rule, clinical laboratory directors will be required to report all blood lead results rather than just blood lead results of 10 micrograms per deciliter of blood or greater. While the current rule allows the Department to gather valuable data on children and adults who have elevated blood lead levels, the data currently required by the rule do not allow the Department to determine true prevalence rates for lead poisoning in Arizona or to assess true lead screening rates. Requiring laboratory directors to report all blood lead results to the Department will enable the Department to characterize the scope of the lead poisoning problem in Arizona and thus to identify risk areas and design effective prevention programs.

The amended rule also will require both physicians and laboratory directors to report blood lead levels at or above 45 micrograms per deciliter in children and at or above 60 micrograms per deciliter in adults within 1 working day of detection rather than within 5 days of detection. The Department is making this change to ensure timely environmental management in accordance with U.S. Centers for Disease Control and Prevention guidelines. The amended rule also provides that a physician or laboratory director may designate a representative to make the reports to the Department on behalf of the physician or laboratory director.

Finally, the amended rule will require both physicians and laboratory directors to report additional fields of information regarding the individuals tested for blood lead, the physicians ordering the tests, the laboratories performing the tests, and the blood draws. Many physicians and laboratory directors are currently providing much of this additional information to the Department as a courtesy. The Department needs this additional information to provide more effective case management and follow-up services. The Department has also eliminated the reporting requirement for race or ethnicity.

There is some overlap in the blood lead results required to be reported by physicians and laboratory directors. This overlap will actually be reduced somewhat by this rulemaking. Previously, both physicians and laboratory directors were required to report all blood lead levels equal to or greater than 10 micrograms of lead per deciliter of whole blood. This rulemaking changes the reporting requirements so that physicians are required to report all blood lead levels equal to or greater than 10 micrograms of lead per deciliter of whole blood for a child or 25 micrograms of lead per deciliter of whole blood for an adult, and laboratory directors are required to report the results of all tests for lead in whole blood. Thus, the overlap under this rulemaking consists of those blood lead levels that are reportable by physicians, commonly referred to as elevated levels. Accurate reporting of elevated levels is crucial, because these results indicate that the Department needs to follow-up with the patient to help identify and eliminate the cause of the elevated level and prevent further exposure.

The Department requires reporting of elevated results by both physicians and laboratory directors for a number of reasons. First, laboratory reporting is generally more efficient. There are only approximately 12 clinical laboratories that report to the Department. Because the number of laboratories is small, the Department can maintain contact with these laboratories to help ensure compliance with the rules. It is not possible for the Department to maintain contact with all of the physicians that might have patients tested for blood lead.

Laboratory reporting also is typically more timely than is physician reporting. Indeed, experience has shown that laboratories are more likely to report at all than are physicians. Where an elevated level is concerned, it is important that the Department receive a report and that it is received promptly. If a physician does not report an elevated level, the Department will not know about the elevated level at all unless a report is received from the laboratory that performed the testing. Particularly where the blood lead level is very high, the Department needs to receive the report quickly so that follow-up can be initiated immediately.

Without laboratory reporting, it would be nearly impossible for the Department to identify noncompliant physicians. Physicians play a direct role in the follow-up for elevated cases, so it is important that the Department be able to identify them.

Only the Department is really burdened by the duplicative information, not the physicians or the laboratories. The Department sorts through the reports received to ensure that each patient with an elevated level receives appropriate follow-up and that no patient is counted more than once.

Also, laboratory reports do not always contain all of the fields of information required by the rule. Laboratories attempt to comply fully, but sometimes do not report all of the information required to be reported. In those instances, when the blood lead level is elevated, the physician reports fill in the missing information. The physician reports received are typically more complete than are laboratory reports. The Department needs all of the fields of information required by the rule to identify trends and risk factors in blood lead poisoning. Sometimes, the Department can only obtain the information through the physician.

In addition, it is actually easier for the laboratories to report all blood lead test results rather than only select blood lead test results. While the rule requires that reports be submitted within different deadlines for different blood lead levels, a laboratory could avoid all sorting of results by reporting on a daily basis. This process will be especially easy with the new electronic reporting system.

Finally, the Department is required by A.R.S. § 36-1673 to have a rule requiring physicians to report significant levels of lead. Also, physicians who participated in the ADHS Screening Coalition specifically requested that physician reporting be retained in the rule. Because physicians are directly involved in patient follow-up when elevated levels occur, the physicians on the Coalition believed that it is important for physicians to remain actively involved in the Department's blood lead program through reporting.

7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

Physician offices and clinical laboratories will bear the costs of the additional reporting requirements, which are expected to be minimal to moderate. A large portion of this will be a 1-time expense, with only a minimal annual long-term expense anticipated. The Department believes that the majority of physician offices are small businesses, but is aware of only 1 clinical laboratory that is a small business.

The Department will bear the costs of the rulemaking process as well as the costs of receiving and maintaining the additional data to be reported by physicians and clinical laboratories. The total cost to the Department is expected to be substantial, although a large portion of it represents a 1-time expense. The Governor's Regulatory Review Committee and the Office of the Secretary of State will also bear the costs of the rulemaking process, which are expected to be minimal to moderate for each.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules:

In A.A.C. R9-4-302(A), the words "in whole . . . blood" were struck to eliminate redundancy.

In A.A.C. R9-4-302(A)(3) and R9-4-302(B)(4), the word "reports" was changed to "report" to be consistent with current rulemaking format and style requirements.

11. A summary of the principal comments and the agency response to them:

The Department did not receive any comments about the proposed rulemaking.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

CHAPTER 4. DEPARTMENT OF HEALTH SERVICES NONCOMMUNICABLE DISEASES

ARTICLE 1. DEFINITIONS

R9-4-103. ~~Definitions: Blood Lead Levels~~ Repealed

ARTICLE 3. BLOOD LEAD LEVELS

R9-4-301. Definitions
~~R9-4-301.~~ R9-4-302. Reporting Significant Blood Lead Levels

ARTICLE 1. DEFINITIONS

~~R9-4-103.~~ ~~Definitions: Blood Lead Levels~~ Repealed

~~In Article 3, Blood Lead Levels, unless the context otherwise requires:~~

~~1. "Physician" means a person engaged in the practice of medicine and licensed pursuant to A.R.S. Title 32, Chapter 13 or 17.~~
~~2. "Whole human blood" means blood taken from any person, alive or dead, which has not been separated into its plasma, erythrocyte, leukocyte and/or thrombocyte components.~~

ARTICLE 3. BLOOD LEAD LEVELS

R9-4-301. Definitions

In this Article, unless otherwise specified:

1. "Adult" means an individual 16 years of age or older.
2. "Child" means an individual younger than 16 years of age.
3. "Clinical laboratory" has the same meaning as in A.R.S. § 36-451.
4. "Patient" means the individual whose blood has been tested for lead content.
5. "Public" means funded by and operated under the direction of the federal or state government or a political subdivision of the state.
6. "Public insurance" means a public program, such as the Arizona Health Care Cost Containment System, KidsCare, Indian Health Services, or TRICARE, that pays for medical services.
7. "Whole blood" means human blood from which plasma, erythrocytes, leukocytes, and thrombocytes have not been separated.

~~R9-4-301~~ R9-4-302. Reporting Significant Blood Lead Levels

A. ~~Any~~ A physician who ~~finds evidence~~ receives a laboratory result showing a level of lead ~~in whole human blood at or above~~ equal to or greater than 10 micrograms of lead per deciliter of whole blood for a child or 25 micrograms of lead per deciliter of whole blood for an adult shall ~~file a~~ report ~~of an elevated~~ the blood lead level ~~with~~ to the Department as follows:

1. ~~Reports~~ The physician shall ~~be made~~ report the blood lead level within ~~five~~ 5 working days ~~of~~ from the date of ~~finding the level to be elevated~~ receipt of the laboratory result if the blood lead level is less than 45 micrograms of lead per deciliter of whole blood for a child or less than 60 micrograms of lead per deciliter of whole blood for an adult.
2. ~~Reports shall be by telephone or submitted in writing on forms supplied by the Department.~~ The physician shall report the blood lead level within 1 working day from the date of receipt of the laboratory result if the blood lead level is equal to or greater than 45 micrograms of lead per deciliter of whole blood for a child or equal to or greater than 60 micrograms of lead per deciliter of whole blood for an adult.
3. ~~All reports shall include the patient's name, address, telephone number, the date of birth, race or ethnicity, gender, occupation, the level of lead and the date the blood lead level was found to be elevated. The report shall also include the name and address of the laboratory making the determination, and the name, address and telephone number of the person making the report.~~ A physician may designate a representative to make the report to the Department on behalf of the physician.

B. ~~Clinical~~ A clinical laboratory ~~directors~~ director ~~or their designated representatives who find evidence of lead in a sample of whole blood at or above 10 micrograms of lead per deciliter of whole blood~~ shall ~~file a~~ report ~~of an elevated~~ to the Department the results of all tests for ~~blood~~ lead ~~with the Department~~ in whole blood as follows:

1. ~~Reports~~ The clinical laboratory director shall ~~be made~~ report the blood lead test result within ~~five~~ 5 working days ~~of~~ from the date of ~~finding the level to be elevated~~ completing the test if the blood lead level is equal to or greater than 10 but less than 45 micrograms of lead per deciliter of whole blood for a child or equal to or greater than 25 but less than 60 micrograms of lead per deciliter of whole blood for an adult.

2. ~~Reports shall be by telephone or submitted in writing on forms supplied by the Department.~~ The clinical laboratory director shall report the blood lead test result within 1 working day from the date of completing the test if the blood lead level is equal to or greater than 45 micrograms of lead per deciliter of whole blood for a child or equal to or greater than 60 micrograms of lead per deciliter of whole blood for an adult.
3. ~~All reports shall include the patient's name, address, telephone number, the date of birth, race or ethnicity, gender, the name of the patient's physician, the level of lead, and the date the blood lead level was found to be elevated. The report shall also include the name and address of the laboratory making the determination.~~ The clinical laboratory director shall report blood test results that are less than 10 micrograms of lead per deciliter of whole blood for a child or less than 25 micrograms of lead per deciliter of whole blood for an adult at least once each month.
4. A clinical laboratory director may designate a representative to make the report to the Department on behalf of the clinical laboratory director.

C. A physician or clinical laboratory director shall submit each report to the Department by telephone; in a writing sent by fax, delivery service, or mail; or by an electronic reporting system authorized by the Department.

D. A report shall include the following information:
1. The patient's name, address, and telephone number;
2. The patient's date of birth;
3. The patient's gender;
4. If the patient is an adult, the patient's occupation and the name, address, and telephone number of the patient's employer;
5. An indication of the patient's funding source and the specific health plan name, if applicable:
   a. Public insurance,
   b. Private insurance,
   c. Self-pay,
   d. Workplace monitoring program,
   e. Other, or
   f. Unknown;
6. The type of blood draw used (venous or capillary);
7. The date the blood was drawn;
8. The blood lead level;
9. The date the blood lead level was received by the physician or determined by the laboratory;
10. The name, address, and telephone number of the laboratory that tested the blood; and
11. The name, practice name, address, and telephone number of the physician who ordered the test.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION - MOTOR VEHICLE DIVISION

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R17-4-709	Amend
R17-4-709.04	Amend
Appendix A	Amend
R17-4-709.07	Amend
R17-4-709.09	Amend
Form B	New Form
R17-4-709.10	New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 28-366

Implementing statutes: A.R.S. §§ 28-1381, 28-1382, 28-1383, 28-1462, and 28-1464, as amended by Laws 2000, Ch. 153, §§ 1, 2, 3, and 7, effective October 1, 2000.

3. The effective date of the rules:

December 7, 2000

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 2128, June 9, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 3042, August 18, 2000

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Lynn S. Golder

Address: Arizona Department of Transportation
Motor Vehicle Division, Mail Drop 507M
3737 North 7th Street, Suite 160
Phoenix, Arizona 85014-5017

Telephone: (602) 712-7941

Fax: (602) 241-1624

E-mail: lgolder@dot.state.az.us

6. An explanation of the rule, including the agency's reasons for initiating the rule:

An ignition interlock device is a device designed to be installed in a vehicle, to measure a driver's breath alcohol concentration, and to prevent starting the vehicle when the driver's breath alcohol concentration is at or above a preset level. The driver must breathe into the device and provide an acceptable breath sample. The device allows the vehicle ignition switch to start the engine only when the breath sample is below the alcohol setpoint. As required by statute, the Arizona Department of Transportation, Motor Vehicle Division (Division) began the Arizona ignition interlock device program in 1998 to reduce repeat DUIs.

This rulemaking action updates the Arizona ignition interlock device program by conforming the program's rules, now R17-4-709 and R17-4-709.01 to R17-4-709.10, to statutory changes enacted during the 2000 legislative session. The Division amended 3 of the rules and Appendix A and added new R17-4-709.10. Additionally, the Division added Form B Ignition Interlock Installer Bond as a 2nd acceptable bond form for authorized installers, and changed R17-4-709.09 to include Form B.

The statutory changes affecting the ignition interlock device program require a 1-year, Division-issued certified ignition interlock device (CIID) order when a person has a conviction by an Arizona court for:

- A DUI under A.R.S. § 28-1381 committed after September 30, 2000, and a conviction for a DUI, an extreme DUI, or an aggravated DUI committed within 5 years before the current DUI violation;
- An extreme DUI under A.R.S. § 28-1382 committed after September 30, 2000; or
- An aggravated DUI under A.R.S. §§ 28-1383(A)(1), 28-1383(A)(2), or 28-1383(A)(3)(b) committed after September 30, 2000.

An Arizona court convicting a person of an offense listed above and committed after September 30, 2000, may issue a CIID order for more than 1 year. An Arizona court or Division CIID order takes effect on the date the person reinstates the driving privilege after suspension or revocation. Finally, statutory changes to A.R.S. § 28-1464(I) require a Division-issued CIID-order extension of no more than 1 year if the person subject to the order:

- Operates an employer's motor vehicle in violation of a requirement in A.R.S. § 28-1464(A);
- Rents, leases, or borrows a motor vehicle in violation of the notification requirement in A.R.S. § 28-1464(C);
- Asks or allows another person to breathe into a CIID in violation of A.R.S. § 28-1464(D);
- Tampers with or evades a CIID in violation of A.R.S. § 28-1464(F); or
- Operates a motor vehicle without a CIID in violation of A.R.S. § 28-1464(H).

The final rules:

- Replace "R17-4-709.09" with "R17-4-709.10" in R17-4-709, line 1;
- Add the phrase "or the Division" to the definition of "participant" in R17-4-709, to R17-4-709.04(B), and to Appendix A, line 4;
- Add the phrase "or Division" to Appendix A, line 5 and to the last line of Appendix A;
- Add the phrase "or Division order" to R17-4-709.07(B);
- Change R17-4-709.09(B) to state: "Form A Ignition Interlock Installer Bond and Form B Ignition Interlock Installer Bond, which follow this Section, are the approved bond forms;"
- Add "or Form B" to R17-4-709.09(C)(3);

- Replace "the approved bond form" to "an approved bond form" in R17-4-709.09(D);
- Add Form B, approved by the Division Director on June 21, 2000, that shows the new Arizona Department of Transportation logo and is otherwise identical to Form A;
- Add R17-4-709.10 to give effect to A.R.S. § 28-1464(I) by establishing a mandatory 1-year extension by the Division of a CIID order when the person subject to the order is convicted of any of the specified violations;
- Change R17-4-709.04(A) from "A manufacturer shall notify the Division in writing of any material modification of a certified ignition interlock device model" to "A manufacturer shall notify the Division in writing at least 10 days before a material modification is made to a certified ignition interlock device model;"
- Add R17-4-709.04(C) that states: "The Division's certification of a materially modified ignition interlock device model does not affect the original certification of the unmodified model;"
- Change R17-4-709.10(B) from "Each conviction for a violation of A.R.S. § 27-1464(A), § 28-1464(C), § 28-1464(D), § 28-1464(F), or § 28-1464(H) will result in an extension by the Division of a participant's certified ignition interlock device order" to "For the duration of a certified ignition interlock device order, each conviction for violating A.R.S. §§ 28-1464(A), 28-1464(C), 28-1464(D), 28-1464(F), or 28-1464(H) of the person subject to the order will result in the Division's extension of the order;"
- Change the word "participant's" to "person's" and the word "will" to "shall" in R17-4-709.10(C); and
- Make minor changes indicated by the Governor's Regulatory Review Council staff.

7. A reference to any studies that the agency relied on in its evaluation of or justification for the rule, and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of economic, small business, and consumer impact:

In 1998, the Division determined that the Arizona ignition interlock device program, mandated by statute, has economic consequences. The Division also determined that the reduction of future DUIs and the increase in business opportunities resulting from the program outweigh the costs to the Division, other government agencies, political subdivisions, ignition interlock device manufacturers, authorized installers, independent laboratories, insurance and surety companies, and people ordered to have CIIDs installed in their vehicles. A person subject to a CIID order pays for CIID installation, maintenance, and removal.

Statutory changes, effective October 1, 2000, expand the Arizona ignition interlock device program. This program expansion increases the Division's costs. However, program expansion might reduce costs or increase benefits for ignition interlock device manufacturers, authorized installers, insurance and surety companies that issue authorized installer bonds, and people subject to CIID orders.

The year 2000 statutory changes expand the Arizona ignition interlock device program by requiring the Division to issue CIID orders and extensions of CIID orders. This requirement results in computer-programming costs, CIID-notice costs, and employee-training costs to the Division.

As of September 30, 2000, the Division received 5 ignition interlock device certification applications from 4 manufacturers and approved 5 devices for certification. As of September 30, 2000, Arizona courts issued 1357 CIID orders, and 14 ignition interlock devices were installed. As of September 2, 2000, Arizona courts handed down 19,631 convictions for DUI (16,175), extreme DUI (1942), and aggravated DUI (1514) offenses committed in 1999. Beginning with the year 2001, the Division expects issuance of approximately 6000 CIID orders and CIID-order extensions a year. A person who fails to comply with a CIID order remains unlicensed.

The economic impact of the DUI Abatement Council and the DUI Abatement fund results from A.R.S. §§ 28-1303, 28-1304, 28-1382, and 28-1383. Annual reporting costs incurred by the Arizona Supreme Court's Administrative Office of the Courts, the Division, county attorneys, municipal prosecutors, and the Governor's Office of Highway Safety result from A.R.S. § 28-1442, added by Laws 2000, Ch. 153, § 4.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

To make the proposed rules more clear, concise, and understandable, the final rules:

- Change R17-4-709.04(A) from "A manufacturer shall notify the Division in writing of any material modification of a certified ignition interlock device model" to "A manufacturer shall notify the Division in writing at least 10 days before a material modification is made to a certified ignition interlock device model;"
- Add R17-4-709.04(C) that states: "The Division's certification of a materially modified ignition interlock device model does not affect the original certification of the unmodified model;"

- Change R17-4-709.10(B) from "Each conviction for a violation of A.R.S. § 27-1464(A), § 28-1464(C), § 28-1464(D), § 28-1464(F), or § 28-1464(H) will result in an extension by the Division of a participant's certified ignition interlock device order" to "For the duration of a certified ignition interlock device order, each conviction for violating A.R.S. §§ 28-1464(A), 28-1464(C), 28-1464(D), 28-1464(F), or 28-1464(H) of the person subject to the order will result in the Division's extension of the order;"
- Change the word "participant's" to "person's" and the word "will" to "shall" in R17-4-709.10(C); and
- Make minor changes indicated by the Governor's Regulatory Review Council staff.

11. A summary of the principal comments and the agency response to them:

The Division did not receive any oral or written comments before the close of the record at 5:00 p.m., September 29, 2000.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE DIVISION

ARTICLE 7. MISCELLANEOUS RULES

R17-4-709.	Ignition Interlock Device Program Definitions
R17-4-709.04.	Modification of a Certified Ignition Interlock Device Model
Appendix A	Ignition Interlock Installation Verification
R17-4-709.07.	Emergency Assistance by Authorized Installers; Continuity of Service to Participants
R17-4-709.09.	Ignition Interlock Device Installer Bond Requirements
Form B	Ignition Interlock Installer Bond
R17-4-709.10.	Mandatory Extension of a Certified Ignition Interlock Device Order

ARTICLE 7. MISCELLANEOUS RULES

R17-4-709. Ignition Interlock Device Program Definitions

In Sections R17-4-709.01 through ~~R17-4-709.09~~ R17-4-709.10, unless the context otherwise requires:

"Audit" means an examination by Arizona Department of Transportation, Motor Vehicle Division personnel of participant records, and supplies of warning labels and written instructions.

"Authorized installer" means a person or entity appointed by a manufacturer to install and service certified ignition interlock devices provided by the manufacturer.

"Calibration" means the testing, adjustment, or systematic standardization of an ignition interlock device to determine and verify the device's accuracy.

"Certified ignition interlock device" has the meaning prescribed in A.R.S. § 28-1301(1).

"Data logger sheet" means a printed report generated from an ignition interlock device that contains all activities, data recordings, and actions pertaining to the device.

"Division" means the Arizona Department of Transportation, Motor Vehicle Division.

"Ignition interlock device" has the meaning prescribed in A.R.S. 28-1301(4).

"Independent laboratory" means a testing facility, not owned or operated by a manufacturer, that can test an ignition interlock device ~~in accordance with~~ according to Sections 1 and 2 of the National Highway Traffic Safety Administration (NHTSA) Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDs), 57 FR 11772 to 11787, April 7, 1992.

"Manufacturer" means a person or entity that provides ignition interlock devices, requests the Division to certify a model of ignition interlock device, and appoints and oversees authorized installers of the certified ignition interlock device.

"Material modification" means a change to a certified ignition interlock device that affects the functioning of the device.

"NHTSA specifications" means the specifications for breath alcohol ignition interlock devices published at 57 FR 11772 to 11787, April 7, 1992.

"Participant" means a person who is ordered by an Arizona court or the Division to equip each motor vehicle operated by the person with a functioning certified ignition interlock device and who becomes an authorized installer's customer for installation and servicing of the certified ignition interlock device.

"Use" means to install, operate, service, repair, or remove an ignition interlock device.

R17-4-709.04. Modification of a Certified Ignition Interlock Device Model

A. A manufacturer shall notify the Division in writing ~~of any~~ at least 10 days before a material modification ~~of~~ is made to a certified ignition interlock device model.

B. Before providing a previously certified but materially modified ignition interlock device model for installation in a motor vehicle under an order of an Arizona court or the Division, a manufacturer shall:

a. Submit to the Division a completed application form and all additional items required by R17-4-709.01(C), and

b. Obtain certification of the materially modified ignition interlock device from the Division.

C. The Division's certification of a materially modified ignition interlock device model does not affect the original certification of the unmodified model.

Appendix A. Ignition Interlock Installation Verification

ARIZONA

IGNITION INTERLOCK INSTALLATION VERIFICATION

As Ordered by the Court or the Division

COURT OR DIVISION DOCKET No.: _____ TODAY'S DATE_____

PARTICIPANT NAME: _____

ADDRESS: _____

CITY_____ ST_____ ZIP_____

PHONE NUMBER: _____

DRIVER LICENSE No OR SS No.: _____

INSTALLER NAME: _____

ADDRESS: _____

CITY_____ ST_____ ZIP_____

PHONE NUMBER: _____

IGNITION INTERLOCK DEVICE MANUFACTURER and MODEL TYPE: _____

_____

IGNITION INTERLOCK DEVICE SERIAL NUMBER(s): _____

VEHICLE IDENTIFICATION INFORMATION:

TITLE OWNER: _____TITLE No.: _____

Make: _____ Model_____ VIN_____

Color_____ Year_____ License Plate No._____

Odometer reading: _____

PARTICIPANT EDUCATION CHECKLIST

_____ I have been instructed on the use of the system.

_____ I understand how to power the system on and off.

_____ I have delivered and passed a proper breath sample.

_____ I have delivered and understand an abort test.

_____ I understand how the alcohol retest feature works.

_____ I understand that if I smoke cigarettes or drink alcohol before testing that I may receive a sensitive or fail reading.

_____ I have been informed of how to obtain service for my system or to have questions answered.

_____ I have received my operator's manual.

_____ I have been informed of the penalties for tampering with, circumventing, or misusing the system.

_____ I have been informed of what happens after failing three breath attempts.

_____ I have been informed of what happens after failing "rolling retest."

MONITORING:

Your next monitoring check is _____. Your ignition system will remind you that you are due to make an appointment. If you fail to make an appointment, your ignition interlock device will shut down and you will be unable to start your car. It will be your responsibility to have your car towed to the Service Center. If you fail to appear you may be found in non-compliance, and your driver license can be suspended for at least 1 year under A.R.S. § 28-1463.

Signature of Participant: _____Date_____

Signature of Installer: _____Date_____

Attach copy of Court or Division Order for Installation of Ignition Interlock Device.

R17-4-709.07. Emergency Assistance by Authorized Installers; Continuity of Service to Participants

A. A manufacturer shall ensure that an authorized installer provides a participant with a 24-hour emergency phone number for assistance in the event the certified ignition interlock device fails or the vehicle experiences problems related to the ignition interlock device's operation. Emergency assistance provided by the authorized installer shall include technical information, towing service, and road service.
1. If the participant's motor vehicle is located not more than 50 miles from the authorized installer, emergency assistance shall be provided within 2 hours after the call for assistance.
2. If the participant's motor vehicle is located not more than 100 miles from the authorized installer, emergency assistance shall be provided within 4 hours after the call for assistance.
3. The authorized installer shall make the certified ignition interlock device functional within 48 hours after a participant's emergency assistance call or shall replace the device.

B. A manufacturer shall ensure uninterrupted service to a participant for the duration of the participant's Arizona court order or Division order.
1. If a manufacturer terminates an authorized installer's appointment, the manufacturer shall:
   a. Obtain participant records from the former authorized installer; and
   b. Provide the participant records to a new authorized installer for retention ~~in accordance with~~ according to R17-4-709.08; or
   c. If the manufacturer does not appoint a new authorized installer, the manufacturer shall retain the participant records ~~in accordance with~~ according to R17-4-709.08.
2. A manufacturer shall:
   a. Ensure that an authorized installer has a permanent facility within 100 miles of the Arizona residence of each participant with an installed certified ignition interlock device provided by the manufacturer;
   b. Ensure that an authorized installer uses a mobile facility for scheduled accuracy checks at specified locations within 100 miles of the Arizona residence of each participant with an installed certified ignition interlock device provided by the manufacturer; or

c. Pay to remove a participant's installed certified ignition interlock device and install a certified ignition interlock device, including a model provided by a 2nd manufacturer, that has an authorized installer with:
   i. A permanent facility within 100 miles of the participant's Arizona residence, or
   ii. A mobile facility for scheduled accuracy checks at a specified location within 100 miles of the participant's Arizona residence.

3. A manufacturer shall notify a participant of the appointment of a new authorized installer or replacement of a certified ignition interlock device at least 30 days before the new authorized installer's appointment becomes effective or replacement of the device occurs.
4. Within 10 days after a change in the list of authorized installers submitted to the Division by a manufacturer, the manufacturer shall submit an updated list of authorized installers to the Division.

R17-4-709.09. Ignition Interlock Device Installer Bond Requirements

A. The amount of the ignition interlock installer bond is $25,000.

B. Form A Ignition Interlock Installer Bond and Form B Ignition Interlock Installer Bond, which ~~follows~~ follow this Section, ~~is~~ are the approved bond ~~form~~ forms.

C. Before installing, servicing, or removing a Division-certified ignition interlock device, an installer shall:
1. Be appointed by a manufacturer as an authorized installer of an ignition interlock device model certified by the Division or for which the manufacturer seeks certification;
2. Obtain an ignition interlock installer bond in the approved form from a surety company authorized by the Arizona Department of Insurance to do general surety business in Arizona; and
3. Submit the original completed Form A or Form B to the Arizona Department of Transportation, Motor Vehicle Division, Enforcement Services, 2500 West Broadway Road, Tempe, Arizona 85282.

D. An installer shall maintain an ignition interlock installer bond in ~~the~~ an approved form while installing, servicing, or removing Division-certified ignition interlock devices.

E. An installer appointed to install, service, or remove more than 1 certified ignition interlock device model needs only 1 bond.

Form B. **Ignition Interlock Installer Bond**

Motor Vehicle Division
ADOT
96-0196 R06/00

Enforcement Services
Motor Vehicle Division
2500 W Broadway Rd
Tempe AZ 85282

IGNITION INTERLOCK INSTALLER BOND

Bond Number

Principal Name (Ignition Interlock Device Installer)	Business Type ❒ Individual ❒ Partnership ❒ Corporation
Trade Name/Doing Business As	Business Location City / State
Surety Name	Surety State

The Surety named above, a corporation duly organized and existing under and by virtue of the laws of the Surety State named above and duly authorized by the Arizona Department of Insurance under the laws of the State of Arizona to do a general surety business in the State of Arizona, and the Principal named above give this bond to the State of Arizona, as Obligee.

Recitals Principal and Surety jointly and severally bind themselves, their successors, assigns, and legal representatives to the Obligee in the sum of $25,000.

1. The sum stated above establishes the limit of Surety's liability at any time after the effective date of the bond.
2. Principal is a manufacturer-appointed installer of ignition interlock devices certified by the Arizona Department of Transportation, Motor Vehicle Division (MVD).

Duration This bond becomes effective on the date of device certification or upon the execution of this document, whichever occurs last. This bond shall remain in effect until terminated by Surety as follows: Surety may terminate liability under this bond if surety gives 60 days written notice to the MVD Director of the intent to terminate liability. Written notice shall be delivered to MVD at the address above. Termination of liability occurs on the last day of the month that includes the end of the 60-day period. If a new bond is filed by the Principal and accepted by the MVD Director, termination of liability under this bond occurs on the effective date of the new bond. The Surety shall remain fully liable for acts or omissions of the Principal before termination of liability.

Condition of Obligation Principal shall make monetary payment in compensation to any person ordered by an Arizona court to equip a motor vehicle with a certified ignition interlock device and who suffers loss from:

1. Insolvency or discontinuance of business of Principal, or
2. Noncompliance of Principal or Principal's agent with the administrative rules made under ARS 28-1462.B.

Venue Any action or proceeding in connection with this bond or the obligations arising under this bond shall be brought in Maricopa County, Arizona.

Severability If a court of competent jurisdiction finds any provision of this bond unenforceable, all other provisions of this bond shall remain in effect.

The Principal and Surety executed this bond on _____.

A power of attorney must be attached designating the Surety Attorney-In-Fact.

Surety Attorney-In-Fact Name	Principal or Duly Authorized Officer Name	Signature
Phone ( )	Partner Name	Signature
Signature	Partner Name	Signature

Surety Resident Agent Name	Title	Send Bond Claims To
Mailing Address		Mailing Address
City, State, Zip Code		City, State, Zip Code
Signature	Phone ( )	Phone ( )

R17-4-709.10. Mandatory Extension of a Certified Ignition Interlock Device Order

A. For purposes of this Section, "conviction" has the meaning prescribed in A.R.S. § 28-101(12).

B. For the duration of a certified ignition interlock device order, each conviction for violating A.R.S. §§ 28-1464(A), 28-1464(C), 28-1464(D), 28-1464(F), or 28-1464(H) of the person subject to the order will result in the Division's extension of the order.

C. Each extension by the Division of a person's certified ignition interlock device order shall be for 1 year.